

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/17/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-090104

FILED: _____

J MATIAS TAFOYA

STEPHEN R LEA

v.

STATE OF ARIZONA

WEBSTER CRAIG JONES

MESA CITY COURT
REMAND DESK-SE

MINUTE ENTRY

MESA CITY COURT

Cit. No. #9191082

Charge: A. SPEED NOT REASONABLE AND PRUDENT

DOB: N/A

DOC: 01/23/02

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A). This is an appeal by the State of Arizona following a directed verdict or judgment of acquittal at the conclusion of the State's case in a civil traffic proceeding. The State has the right to appeal pursuant to Rule 29, Arizona Rules of Procedure in Civil Traffic cases.

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This case has been under advisement and this Court has considered and reviewed the record of the Mesa City Court, the exhibits, and the memoranda submitted.

In this bizarre case, the State appeals from the trial judge's perplexing ruling that the State failed to establish the identity of Appellee (Defendant in the court below), J. Matias Tafoya.¹ The trial judge found that the only evidence of identification were two photographs contained in State's exhibits 2 and 4. State's exhibit 2 is a photograph from a stationary mounted camera that was taken on the date of the violation. The photograph in exhibit 4 is from Judge Tafoya's driver's license. These photographs clearly picture the same individual. It is not possible that reasonable minds could differ about the identification of the distinctive individual pictured therein. For some unexplained reason, the trial judge claimed that he required testimony that the two individuals were the same person. The trial judge is incorrect. No such testimony was necessary.

This Court is ever mindful that our courts must be careful to avoid even the appearance of favoritism or preferential treatment when members of the judiciary appear in court as parties or witnesses. This is such a case.

This Court finds that the trial judge abused his discretion in refusing to consider the evidence that was admitted for purposes of establishing the identity of the accused in a civil traffic proceeding.

IT IS THEREFORE ORDERED reversing the trial court's order granting a judgment of acquittal (directed verdict).

¹ Judge Tafoya who is the Appellee herein is a Phoenix City Court Magistrate who has served honorably on the bench for many years. Judge Tafoya is well known among members of the limited jurisdiction bench, as well as members of the Superior Court bench for his intelligence, penetrating and irrepressible good humor.

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IT IS FURTHER ORDERED remanding this case back to the Mesa
City Court for a new trial.